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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 12

Application Number: 09/896,505

Filing Date: June 29, 2001

Appellant(s): WALKER ET AL.

MAILED

APR 10 2003

Steven H. Walker, Et Al.
For Appellant

GROUP 3600

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/3/03.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-11 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,771,653	Dolati et al.	6-1998
5,535,569	Seccombe et al.	7-1996
6,073,414	Garris et al.	6-2000
4,986,051	Meyer et al.	1-1991
5,463,837	Dry	11-1995

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,771,653 to Dolati et al. in view of U.S. Patent No. 5,535,569 to Seccombe et al.

Regarding claims 1 and 2, Dolati discloses a hollow flange comprised of a first flange side member parallel to the top web member (fig. 4: 43), a second flange side member parallel to the leg (fig. 4: 43), and a third side flange member parallel to the top web member. However, Dolati does not disclose the third side flange member terminating with a margin member juxtaposed to the leg. Seccombe discloses an

elongated metallic structural member having a third side flange member (fig. 1: 19, and further disclosed in fig. 6) which terminates with a margin member juxtaposed to the leg member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dolati by terminating the third side flange member in the manner disclosed by Seccombe to reduce the amount of bending and increase the resistance to shear (Seccombe, column 2, lines 34-40) without having to increase the thickness of the structural member.

Regarding claims 3, 4, 5 and 9, Dolati discloses a second and third web member with side flanges (fig. 4: 43). However, these web members are positioned on the left and right sides, parallel to the legs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dolati by aligning these extra web members between the legs and above the first web (fig. 3: 24) in order to create a more rigid structural member by supporting the legs.

Regarding claims 6, Dolati discloses an elongated structural member having mirror leg members, transitioning angularly inward and terminating at their ends with outwardly extending hollow flanges (fig. 3).

Regarding claim 7, Dolati discloses a second and third web member with side flanges (fig. 4: 43), referred to as reinforcement tracks (column 7, line 14), and legs transitioning angularly inward. However, these web members are positioned on the left and right sides, parallel to the legs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dolati by aligning these extra web members between the legs and above the first web (fig. 3: 24) in order to

create a more rigid structural member by supporting the legs as Dolati discloses that these reinforcement tracks may be of various length and located at various positions on the structural member in order to better reinforce the member without having to use a heavier gauge material (column 7, lines 14-18).

Regarding claim 8, Dolati discloses an elongated structural member having mirror leg members, transitioning angularly inward and terminating at their ends with outwardly extending hollow flanges (fig. 3).

Regarding claim 10, Dolati discloses the second flange member as being in the plane of the leg member (fig. 4).

Regarding claim 11, Seccombe discloses the margin member secured to the leg member (fig. 1).

(11) Response to Argument

Applicant argues the use of the Dolati and Seccombe references, as they both seek advantages different than that of the instant application. However, Dolati and Seccombe are both intended for use as structural support members used for building supports and constructed from similar materials. Also, Dolati in view of Seccombe are drawn to the same structural limitations as claimed by the applicant by being elongated metal reinforcing beams having with a similar structure. Regarding the hollow flange members, Dolati discloses a curved flange member at the ends of the legs, wherein the curved end approaches the structural member's leg. Seccombe discloses the use of closed flanges on the leg ends as seen in fig. 6 as a means to strengthen the design of the member. It would have been obvious for one skilled in the art at the time of the

invention to terminate the leg components in the manner taught by Seccombe to increase the strength and rigidity of the member. Regarding the second parallel web for securing with a fastener, the leg component of Dolati teaches an additional strengthening web (fig. 4: 43) and a parallel web member secured by fasteners for additional strength (fig. 4:43). It would have been an obvious improvement to move the web member to span the top web in order to create a more rigid structural member by supporting the legs, as Dolati discloses that these reinforcement tracks may be of various length and located at various positions on the structural member in order to better reinforce the member without having to use a heavier gauge material (column 7, lines 14-18).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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April 4, 2003

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